IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

WP(C).No. 32078 of 2006(R)

PETITIONER:

P.MOIDEENKUTTY, PRESIDENT,
MANNANTHAWADY TOWN DEVELOPMENT ACTION COMMITTEE,
P.O.MANANTHAWADY, WAYANAD DISTRICT.

BY ADV. SRI.JESWIN P.VARGHESE

RESPONDENTS:

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1. THE REVENUE DIVISIONAL OFFICER,
MANANTHAVADY, WAYANADU DISTRICT.

2. THE DISTRICT COLLECTOR,
KALPETTA, WAYANADU DISTRICT.

3. THE STATE OF KERALA, REP. BY THE
SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

4. THE DEPUTY CONTROLLER OF EXPLOSIVES,
KALPETTA, WAYANADU DISTRICT.

5. M/S.I.C.V.NAIDU & SONS,
DEALER, BHARAT PETROLEUM CORPORATION LTD.,
MANANTHAWADY, WAYANADU DISTRICT.

6. THE ASSISTANT MANAGER (SALES),
BHARAT PETROLEUM CORPORATION LTD.,
KANNUR.

R1 TO 4 BY GOVT. PLEADER SMT. LATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 32078 of 2006 R

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Dated this the 16th day of January, 2007

O R D E R

The grievance of the petitioner is that the first respondent is not initiating proper proceedings under Chapter X-B of the Cr.P.C. Notice is given. The learned Prosecutor has entered appearance on behalf of the first respondent. A statement has been filed by the first respondent.

2. The statement of the first respondent reveals clearly that a complaint has been received from the petitioner soliciting action under Chapter X-B of Cr.P.C. Though the complaint was received as early as on 23.1.2006, the enquiry prior to the conditional order is still in progress, it is reported. The first respondent must note that he has to decide whether a conditional order under Section 133 Cr.P.C. deserves to be passed or not. Such an order will only give rise to proceedings under Section 133 Cr.P.C. (Chapter X-B). It is not a final order that he is expected to pass. He is expected only to take the decision whether a conditional order under Section 133 Cr.P.C. deserves to be passed or not.

3. The long delay in taking that crucial decision has got to be deprecated. However, I take note of the undertaking in the statement filed

by the first respondent that a decision in the matter shall be taken expeditiously. I am satisfied that this Writ Petition can, in these circumstances, be allowed and appropriate directions can be issued.

4. This Writ Petition is accordingly allowed. The first respondent is directed to take a decision expeditiously on the question whether proceedings under Chapter XB deserves to be initiated by passing a conditional order under Section 133 Cr.P.C.. Such order shall be passed within a period of two months from this date. The order shall be communicated forthwith to the first respondent by the learned Prosecutor.

(R. BASANT)
Judge

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R.BASANT, J.

W.P.C.NO.32078 OF 2006

Dated this the 20th day of December, 2006.

ORDER

The learned Government Pleader submits that now instructions have been received that notice was given as early as on 04.12.2006 and there was a direction to file statement within 15 days. Request for further time is granted as a last chance.

2. Call on 16.01.2007. The statement shall be filed by 15.01.2007 with copy to the learned counsel for the petitioner. If no statement has been filed on or before 15.01.2007, the 1st respondent shall appear in person to explain the facts to the Court on 16.01.2007. The learned Public Prosecutor shall communicate this direction to the 1st respondent.

R.BASANT
JUDGE

rtr/